

EXHIBIT J

**K. Wyer Apr. 23, 2024 *Touhy*
Letter**



U.S. Department of Justice
Civil Division, Federal Programs Branch
1100 L St, NW, Room 12014
Washington, D.C. 20005

Kathryn L. Wyer
Senior Trial Counsel

Tel: (202) 616-8475
kathryn.wyer@usdoj.gov

April 23, 2024

VIA EMAIL

Michael Francisco
McGuireWoods LLP
mfrancisco@mcguirewoods.com

Re: ***Doe v. Mast*, No. 3:22-cv-49-NKM-JCH**

Michael,

This letter further responds to your *Touhy* requests of February 2 and 9, 2024. I previously addressed certain categories of documents in two separate letters dated March 21, 2024; and I conveyed agency decisions regarding two groups of documents that I identified as Subsets A and B in my letter of March 29, 2024. I convey herein revised authorizations regarding two documents in Subset A, as well as agency decisions regarding a third group of documents, Subset C, which includes the remainder of the documents you transmitted in your February 2 and 9 requests. As an additional reference, I attach hereto a color-coded chart summarizing the agencies' responses with respect to each document.

A. SUBSET A REVISED AUTHORIZATION:

The Department of Defense (DOD) has identified two additional documents in Subset A, addressed in my letter of March 29, 2024, that were inadvertently omitted from the list of documents requiring redactions. These redactions are necessary to protect sensitive military information. DOD therefore must revise its prior authorization for these two documents and authorizes the documents identified below for production only with these redactions. I will include the redacted versions of those documents in the set I will send you in connection with this letter, and DOD would ask that you substitute those redacted versions in your production. If you have already produced the documents identified in Subset A, please ask the parties to whom the documents were produced to destroy the original versions and substitute the new redacted versions. DOD appreciates your and other parties' cooperation in this matter.

MAST_TOUHY_006366
MAST_TOUHY_006371

B. SUBSET C REVIEWED:

Relevant agencies have completed review of the following documents:

All documents you transmitted on February 2 or 9, 2024 (MAST_TOUHY_00001 through MAST_TOUHY_007045), that were not previously addressed in my two letters of March 21, 2024 and my letter of March 29, 2024.

1. NOT AUTHORIZED:

- a. The Department of Defense (DoD), in consultation with other relevant agencies, has determined that the following documents in Subset C are not authorized to be produced or used in this case and therefore should not be produced in any form. None of these documents fall within the time period applicable to Plaintiffs' Requests for Production, *see* ECF 230-1, at 6, nor do they appear to contain information relevant to any potential claim or defense in this litigation. Rather, all but one of the documents are internal communications between your client Joshua Mast in his capacity as a DoD employee and DoD while proceedings in the collateral state court adoption proceeding were underway and appear to relate to your clients' use of documents in that proceeding. In addition, many of the documents, including the single document that is not an internal DoD communication, contain sensitive information similar to that which the United States has previously indicated should not be introduced in court proceedings.

MAST_TOUHY_000027
MAST_TOUHY_000062
MAST_TOUHY_000101
MAST_TOUHY_000233
MAST_TOUHY_000345
MAST_TOUHY_000391
MAST_TOUHY_000393
MAST_TOUHY_000538
MAST_TOUHY_000599
MAST_TOUHY_000600
MAST_TOUHY_000603
MAST_TOUHY_000610
MAST_TOUHY_000611
MAST_TOUHY_000630
MAST_TOUHY_000643
MAST_TOUHY_000653
MAST_TOUHY_003044
MAST_TOUHY_003046
MAST_TOUHY_003951
MAST_TOUHY_005085
MAST_TOUHY_005087
MAST_TOUHY_005089
MAST_TOUHY_005104

- b. DoD has determined that the following document in Subset C is not authorized to be produced in this case because it does not fall within the time period applicable to Plaintiffs' Requests for Production, *see* ECF 230-1, at 6;

it was already submitted to the Court and the parties under seal; and it includes as an attachment a since-superseded decontrolled version of a document that appeared in unredacted form in numerous other places in the Masts' Touhy transmission. The redacted version of the latter document that DoD authorizes for production in this case will be provided in connection with Section 2 below. Please note that DoD has since identified additional sensitive terms that must be redacted from authorized versions of this document, consistent with terms it identified as sensitive in the Virginia Court of Appeals proceeding.

MAST_TOUHY_000591

2. REDACTIONS REQUIRED: The following documents in Subset C are authorized to be produced only in redacted form, and, where indicated below, with a Confidential designation under the Protective Order to protect unredacted federal employee names and contact information. I will separately transmit to you the authorized redacted versions of these documents:

MAST_TOUHY_000373
MAST_TOUHY_000514 (Confidential)
MAST_TOUHY_000734
MAST_TOUHY_000823 (Confidential)
MAST_TOUHY_000828 (Confidential)
MAST_TOUHY_000865 (Confidential)
MAST_TOUHY_001422 (Confidential)
MAST_TOUHY_001436 (Confidential)
MAST_TOUHY_001483
MAST_TOUHY_002350 (Confidential)
MAST_TOUHY_002357 (Confidential)
MAST_TOUHY_002420 (Confidential)
MAST_TOUHY_002424 (Confidential)
MAST_TOUHY_002499 (Confidential)
MAST_TOUHY_002502 (Confidential)
MAST_TOUHY_002516 (Confidential)
MAST_TOUHY_002519
MAST_TOUHY_002526
MAST_TOUHY_002533
MAST_TOUHY_002540 (Confidential)
MAST_TOUHY_002546
MAST_TOUHY_002551
MAST_TOUHY_002552 (Confidential)
MAST_TOUHY_002554 (Confidential)
MAST_TOUHY_002555
MAST_TOUHY_002557
MAST_TOUHY_002582 (Confidential)
MAST_TOUHY_002585 (Confidential)
MAST_TOUHY_002589 (Confidential)
MAST_TOUHY_002591 (Confidential)

MAST_TOUHY_002618 (Confidential)
MAST_TOUHY_002624 (Confidential)
MAST_TOUHY_002626 (Confidential)
MAST_TOUHY_002628
MAST_TOUHY_002644 (Confidential)
MAST_TOUHY_002662 (Confidential)
MAST_TOUHY_002667 (Confidential)
MAST_TOUHY_002673 (Confidential)
MAST_TOUHY_002676 (Confidential)
MAST_TOUHY_002681 (Confidential)
MAST_TOUHY_002703 (Confidential)
MAST_TOUHY_002710 (Confidential)
MAST_TOUHY_002730 (Confidential)
MAST_TOUHY_002748
MAST_TOUHY_002778 (Confidential)
MAST_TOUHY_002812 (Confidential)
MAST_TOUHY_002835 (Confidential)
MAST_TOUHY_002839 (Confidential)
MAST_TOUHY_002845 (Confidential)
MAST_TOUHY_003154 (Confidential)
MAST_TOUHY_003159 (Confidential)
MAST_TOUHY_003163 (Confidential)
MAST_TOUHY_003167 (Confidential)
MAST_TOUHY_003171 (Confidential)
MAST_TOUHY_003175 (Confidential)
MAST_TOUHY_003178 (Confidential)
MAST_TOUHY_003181 (Confidential)
MAST_TOUHY_003183 (Confidential)
MAST_TOUHY_003185 (Confidential)
MAST_TOUHY_003187 (Confidential)
MAST_TOUHY_003190 (Confidential)
MAST_TOUHY_003195 (Confidential)
MAST_TOUHY_003201 (Confidential)
MAST_TOUHY_003212 (Confidential)
MAST_TOUHY_003223 (Confidential)
MAST_TOUHY_003235 (Confidential)
MAST_TOUHY_003247 (Confidential)
MAST_TOUHY_003257 (Confidential)
MAST_TOUHY_003269 (Confidential)
MAST_TOUHY_003281 (Confidential)
MAST_TOUHY_003294 (Confidential)
MAST_TOUHY_003299 (Confidential)
MAST_TOUHY_003303 (Confidential)
MAST_TOUHY_003307 (Confidential)
MAST_TOUHY_003311 (Confidential)
MAST_TOUHY_003315 (Confidential)
MAST_TOUHY_003318 (Confidential)
MAST_TOUHY_003321 (Confidential)

MAST_TOUHY_003323 (Confidential)
MAST_TOUHY_003325 (Confidential)
MAST_TOUHY_003327 (Confidential)
MAST_TOUHY_003330 (Confidential)
MAST_TOUHY_003335 (Confidential)
MAST_TOUHY_003341 (Confidential)
MAST_TOUHY_003352 (Confidential)
MAST_TOUHY_003363 (Confidential)
MAST_TOUHY_003375 (Confidential)
MAST_TOUHY_003387 (Confidential)
MAST_TOUHY_003397 (Confidential)
MAST_TOUHY_003409 (Confidential)
MAST_TOUHY_003421 (Confidential)
MAST_TOUHY_003434 (Confidential)
MAST_TOUHY_003439 (Confidential)
MAST_TOUHY_003443 (Confidential)
MAST_TOUHY_003447 (Confidential)
MAST_TOUHY_003451 (Confidential)
MAST_TOUHY_003455 (Confidential)
MAST_TOUHY_003458 (Confidential)
MAST_TOUHY_003461 (Confidential)
MAST_TOUHY_003463 (Confidential)
MAST_TOUHY_003465 (Confidential)
MAST_TOUHY_003467 (Confidential)
MAST_TOUHY_003470 (Confidential)
MAST_TOUHY_003475 (Confidential)
MAST_TOUHY_003481 (Confidential)
MAST_TOUHY_003492 (Confidential)
MAST_TOUHY_003504 (Confidential)
MAST_TOUHY_003516 (Confidential)
MAST_TOUHY_003526 (Confidential)
MAST_TOUHY_003538 (Confidential)
MAST_TOUHY_003550 (Confidential)
MAST_TOUHY_003586 (Confidential)
MAST_TOUHY_003591 (Confidential)
MAST_TOUHY_003628 (Confidential)
MAST_TOUHY_003646 (Confidential)
MAST_TOUHY_003653
MAST_TOUHY_003659 (Confidential)
MAST_TOUHY_003664 (Confidential)
MAST_TOUHY_003670 (Confidential)
MAST_TOUHY_003691
MAST_TOUHY_003823 (Confidential)
MAST_TOUHY_003949 (Confidential)
MAST_TOUHY_003959 (Confidential)
MAST_TOUHY_004303
MAST_TOUHY_004336
MAST_TOUHY_004419

MAST_TOUHY_004570
MAST_TOUHY_005126 (Confidential)
MAST_TOUHY_006007
MAST_TOUHY_006751
MAST_TOUHY_006763 (Confidential)
MAST_TOUHY_006909 (Confidential)
MAST_TOUHY_007045 (Confidential)

- 3. CONFIDENTIAL:** The following documents in Subset C may be produced without redaction but only with the designation of Confidential under the Protective Order to protect non-party federal employee names and contact information (except for names of certain high-level/rank officials) as previously agreed. If there are questions regarding the Confidential status of a specific name or contact information, please feel free to request clarification.

MAST_TOUHY_000290
MAST_TOUHY_000368
MAST_TOUHY_000392
MAST_TOUHY_000520
MAST_TOUHY_000525
MAST_TOUHY_000577 through MAST_TOUHY_000587
MAST_TOUHY_000598
MAST_TOUHY_000601
MAST_TOUHY_000605
MAST_TOUHY_000638
MAST_TOUHY_000641
MAST_TOUHY_000649
MAST_TOUHY_000662
MAST_TOUHY_000669 through MAST_TOUHY_000691
MAST_TOUHY_000704 through MAST_TOUHY_000710
MAST_TOUHY_000740 through MAST_TOUHY_000746
MAST_TOUHY_000814 through MAST_TOUHY_000821
MAST_TOUHY_000848
MAST_TOUHY_000862
MAST_TOUHY_000868 through MAST_TOUHY_000871
MAST_TOUHY_000884 through MAST_TOUHY_000899
MAST_TOUHY_000912 through MAST_TOUHY_000948
MAST_TOUHY_000964
MAST_TOUHY_000979
MAST_TOUHY_000987 through MAST_TOUHY_001015
MAST_TOUHY_001031 through MAST_TOUHY_001038
MAST_TOUHY_001057 through MAST_TOUHY_001059
MAST_TOUHY_001065
MAST_TOUHY_001083 through MAST_TOUHY_001087
MAST_TOUHY_001093
MAST_TOUHY_001113 through MAST_TOUHY_001114
MAST_TOUHY_001313
MAST_TOUHY_001320

MAST_TOUHY_001327
MAST_TOUHY_001391 through MAST_TOUHY_001395
MAST_TOUHY_001414
MAST_TOUHY_001434
MAST_TOUHY_001449 through MAST_TOUHY_001470
MAST_TOUHY_001475
MAST_TOUHY_001489 through MAST_TOUHY_001563
MAST_TOUHY_002346 through MAST_TOUHY_002348
MAST_TOUHY_002352 through MAST_TOUHY_002355
MAST_TOUHY_002359 through MAST_TOUHY_002414
MAST_TOUHY_002428 through MAST_TOUHY_002459
MAST_TOUHY_002464
MAST_TOUHY_002467 through MAST_TOUHY_002468
MAST_TOUHY_002470 through MAST_TOUHY_002495
MAST_TOUHY_002505 through MAST_TOUHY_002512
MAST_TOUHY_002518
MAST_TOUHY_002525
MAST_TOUHY_002532
MAST_TOUHY_002539
MAST_TOUHY_002545
MAST_TOUHY_002547 through MAST_TOUHY_002550
MAST_TOUHY_002588
MAST_TOUHY_002610 through MAST_TOUHY_002615
MAST_TOUHY_002620
MAST_TOUHY_002637 through MAST_TOUHY_002640
MAST_TOUHY_002679 through MAST_TOUHY_002680
MAST_TOUHY_002701 through MAST_TOUHY_002702
MAST_TOUHY_002733
MAST_TOUHY_002736
MAST_TOUHY_002740
MAST_TOUHY_002744 through MAST_TOUHY_002745
MAST_TOUHY_002754
MAST_TOUHY_002759
MAST_TOUHY_002800 through MAST_TOUHY_002802
MAST_TOUHY_002820 through MAST_TOUHY_002822
MAST_TOUHY_002825
MAST_TOUHY_002827 through MAST_TOUHY_002829
MAST_TOUHY_002833
MAST_TOUHY_002843
MAST_TOUHY_002853 through MAST_TOUHY_002868
MAST_TOUHY_002930
MAST_TOUHY_002953
MAST_TOUHY_003050 through MAST_TOUHY_003052
MAST_TOUHY_003069 through MAST_TOUHY_003071
MAST_TOUHY_003174
MAST_TOUHY_003189
MAST_TOUHY_003314
MAST_TOUHY_003329

MAST_TOUHY_003454
MAST_TOUHY_003469
MAST_TOUHY_003564
MAST_TOUHY_003573 through MAST_TOUHY_003585
MAST_TOUHY_003611
MAST_TOUHY_003625
MAST_TOUHY_003631
MAST_TOUHY_003639 through MAST_TOUHY_003643
MAST_TOUHY_003695
MAST_TOUHY_003764
MAST_TOUHY_004210 through MAST_TOUHY_004249
MAST_TOUHY_004265 through MAST_TOUHY_004300
MAST_TOUHY_004309
MAST_TOUHY_004406
MAST_TOUHY_004425
MAST_TOUHY_004435
MAST_TOUHY_004454 through MAST_TOUHY_004473
MAST_TOUHY_004493 through MAST_TOUHY_004551
MAST_TOUHY_004565
MAST_TOUHY_004574 through MAST_TOUHY_004593
MAST_TOUHY_004811 through MAST_TOUHY_004812
MAST_TOUHY_005078
MAST_TOUHY_005927
MAST_TOUHY_005943
MAST_TOUHY_005949
MAST_TOUHY_005969
MAST_TOUHY_005989
MAST_TOUHY_006735
MAST_TOUHY_006737
MAST_TOUHY_006740
MAST_TOUHY_006757
MAST_TOUHY_006870 through MAST_TOUHY_006888

Aside from federal employee names and contact information, the following documents contain information relating to applications for immigration benefits that should be designated as Confidential and protected from public disclosure:

MAST_TOUHY_000026
MAST_TOUHY_000289
MAST_TOUHY_000379
MAST_TOUHY_000646
MAST_TOUHY_003764

- 4. REMAINDER:** The remainder of the documents in Subset C may be produced without redaction. These documents may contain private information regarding the parties that the parties should designate as Confidential.

The agencies appreciate your efforts and cooperation in seeking authorization as required by their respective *Touhy* regulations. Please let me know if you have any questions regarding this or past responses.

Sincerely,

/s/

Kathryn Wyer